



4310-05-P

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 938

[PA-161-FOR; Docket ID: OSM-2012-0009]

Pennsylvania Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement (OSM), Interior.

ACTION: Proposed rule; extension of comment period and notice of public hearings.

SUMMARY: We are reopening and extending the public comment period and will be holding two public hearings on the proposed amendment to the Commonwealth of Pennsylvania's approved regulatory program (the "Pennsylvania program") published on July 11, 2012. The comment period is being reopened and extended in order to afford the public more time to comment and to allow ample time to conduct two public hearings. This extension was requested by the Citizens Coal Council and the Environmental Integrity Project. We are also notifying the public of the date, time, and locations for the public hearing. Pennsylvania is introducing beneficial use of coal ash into the Pennsylvania statutory scheme via Pennsylvania's Solid Waste Management Act ("SWMA"), the Clean Streams Law ("CSL"), the Surface Mining Conservation and Reclamation Act, and the Administrative Code. Pennsylvania intends to revise its approved program pursuant to the additional flexibility afforded by the revised Federal regulations and SMCRA, as amended, to ensure Pennsylvania's proposed provision is consistent with and in accordance with SMCRA and the corresponding regulations.

DATES: We will accept written comments until 4 p.m., eastern standard time (“EST”) on October 19, 2012. Two public hearings will be held on Wednesday, October 17, 2012, at 6:00 p.m. EST time.

ADDRESSES: You may submit comments, identified by “PA-161-FOR; Docket ID: OSM-2012-0009” by either of the following two methods:

- Federal eRulemaking Portal: <http://www.regulations.gov>. The proposed rule has been assigned Docket ID: OSM-2012-0009. If you would like to submit comments through the Federal eRulemaking Portal, go to <http://www.regulations.gov> and follow the instructions.
- Mail/Hand Delivery/Courier: Mr. Ben Owens, Chief, Pittsburgh Field Division, Office of Surface Mining Reclamation and Enforcement, Three Parkway Center, Suite 300, Pittsburgh, PA 15220.

Instructions: For detailed instructions on submitting comments and additional information on the rulemaking process, see “III. Public Comment Procedures” in the SUPPLEMENTARY INFORMATION section of the proposed rule published on July 11, 2012.

Public Hearing: One public hearing will be held in Pittsburgh, Pennsylvania at the DoubleTree by Hilton Pittsburgh Green Tree, 101 Doubletree Drive, Pittsburgh, Pennsylvania, 15205; phone number: 412-922-8400, on Wednesday, October 17, 2012, at 6:00 p.m. EST. Simultaneously, a public hearing will be held in Pottsville, Pennsylvania at the Ramada Pottsville, at 101 South Progress Avenue, Pottsville, Pennsylvania, 17901; phone number 570-622-4600, on Wednesday, October 17, 2012, at 6:00 p.m. EST time.

Docket: For access to the docket to review copies of the Pennsylvania regulations, the relevant amendment, a listing of any scheduled public hearings, and all written comments

received in response to this document, you must go to the address listed below during normal business hours, Monday through Friday, excluding holidays. You may receive one free copy of the amendments by contacting OSM's Pittsburgh Field Division Office; or you can view the full text of the program amendment available for you to read at www.regulations.gov.

In addition, you may review a copy of the amendment during regular business hours at one of the following locations:

Ben Owens, Chief Pittsburgh Field Division
Office of Surface Mining Reclamation and Enforcement
Appalachian Regional Coordinating Center
3 Parkway Center, 3rd Floor
Pittsburgh, Pennsylvania 15220
Telephone: (412) 937- 2827, E-mail: bowens@osmre.gov

Thomas Callaghan, P. G., Director
Bureau of Mining and Reclamation
Pennsylvania Department of Environmental Protection
Rachel Carson State Office Building
P.O. Box 8461
Harrisburg, Pennsylvania 17105-8461
Telephone: (717) 787-5015, E-mail: tcallaghan@state.pa.us

FOR FURTHER INFORMATION CONTACT: Ben Owens, Chief, Pittsburgh Field Division,
Telephone: (412) 937-2827. E-mail: bowens@osmre.gov.

SUPPLEMENTARY INFORMATION: On July 11, 2012, (77 FR 40836) we published a proposed rule that would revise the Pennsylvania program. The revisions would add regulations to the Pennsylvania program to regulate coal ash. The key provisions of the rule address the

operating requirements for beneficial use of coal ash upon active and abandoned mine land sites.

The proposed amendment addition has the following components:

- Chemical and physical certification standards for coal ash to ensure compliance with beneficial use requirements;
- Coal ash monitoring to ensure coal ash meets qualification criteria;
- Water quality monitoring to create a robust dataset to facilitate the evaluation and documentation of water quality at sites where coal ash is beneficially used;
- A minimum number of monitoring points to characterize the groundwater;
- Recording of the landowner consent for placement of coal ash for beneficial use;
- Reporting of volumes and locations where coal ash is beneficially used;
- Operational and monitoring standards for all types of beneficial use;
- A centralized process to qualify coal ash for beneficial use at mine sites;
- An annual fee payable to the Department to offset some of its costs for coal ash and water quality sampling and testing at mine sites where coal ash is beneficially used; and
- Abatement plan requirements in the event that site assessments indicate groundwater or surface water degradation.

On July 19, 2012, (Administrative Record Number, PA 894.06) we received a request from the Citizens Coal Council to hold a public hearing on the amendment and to extend the public comment period. On July 25, 2012, (Administrative Record Number, PA 894.08), we received a request from the Center for Coalfield Justice to hold a public hearing on the amendment. We are granting the request to extend the public comment period to afford the public more time to comment on the amendment and to allow enough time to schedule and hold the hearings, as

requested. The date, time and location for the public hearings may be found under **DATES** and **ADDRESSES** above.

The hearings will be open to anyone who would like to attend and/or testify. The primary purpose of the public hearing is to obtain your comments on the proposed rule so that we can prepare a complete and objective analysis of the proposal. The hearing officer will conduct the hearing and receive the comments submitted. Comments submitted during the hearing will be responded to in the preamble to the final rule, not at the hearing. We appreciate all comments, but those most useful and likely to influence decisions on the final rule will be those that either involve personal experience or include citations to, and analyses of, the Surface Mining Control and Reclamation Act of 1977, its legislative history, its implementing regulations, case law, other State or Federal laws and regulations, data, technical literature, or relevant publications.

At the hearing, a court reporter will record and make a written record of the statements presented. This written record will be made part of the administrative record for the rule. If you have a written copy of your testimony, we encourage you to give us a copy. It will assist the court reporter in preparing the written record. Any disabled individual who needs reasonable accommodation to attend the public hearing is encouraged to contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

Dated: August 13, 2012

Michael K. Robinson, Acting Regional Director, Appalachian Region

